

EXHIBIT F

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
4
5 THE PHILLIES, a Pennsylvania)
6 limited partnership,)
7)
8)
9 Plaintiff,) Civil Action No.
10)
11 vs.) 19-7239
12)
13 HARRISON/ERICKSON,)
14 INCORPORATED, a New York)
15 corporation, HARRISON ERICKSON,)
16 a partnership, and WAYDE)
17 HARRISON and BONNIE ERICKSON,)
18)
19 Defendants.)
20 -----)
21
22
23
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13 1

14 ****CONFIDENTIAL****

15 VIDEOTAPED-TELEPHONIC 30(b)(6) DEPOSITION

16 TAKEN REMOTELY VIA

17 VIDEOCONFERENCE AND TELECONFERENCE

18 OF

19 DAVID RAYMOND

20 Thursday, May 7, 2020

21

22

23

24 Reported by:

25 FRANCIS X. FREDERICK, CSR, RPR, RMR
 JOB NO. 179894

	Page 2	Page 3
1		1
2		2 APP E A R A N C E S:
3		3
4		4 (All Counsel and Participants
5	May 7, 2020	5 present via videoconference and
6	3:45 p.m.	6 teleconference in compliance with
7		7 COVID-1 restrictions.)
8	CONFIDENTIAL videotaped deposition	8
9	of DAVID RAYMOND, pursuant to Federal	9 DUANE MORRIS
10	Rule of Civil Procedure 30(b)(6), before	10 Attorneys for Plaintiff
11	Francis X. Frederick, a Certified	11 30 South 17th Street
12	Shorthand Reporter, Registered Merit	12 Philadelphia, Pennsylvania 19103
13	Reporter and Notary Public of the States	13 BY: TYLER MARANDOLA, ESQ.
14	of New York and New Jersey.	14 DAVID WOLFSON, ESQ.
15		15
16		16 MITCHELL SILBERBERG & KNUPP
17		17 437 Madison Avenue
18		18 New York, New York 10022
19		19 BY: PAUL MONTCLARE, ESQ.
20		20 LEO LICHTMAN, ESQ.
21		21 - and -
22		22 MITCHELL SILBERBERG & KNUPP
23		23 1818 N Street NW
24		24 Washington, DC 20036
25		25 BY: MATTHEW WILLIAMS, ESQ.
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1		1
2	APP E A R A N C E S: (Cont'd.)	2 THE VIDEOGRAPHER: Good afternoon.
3		3 My name -- one second.
4	ALSO PRESENT:	4 My name is Phil Rizzuti. I am the
5	PHIL RIZZUTI, Videographer	5 legal videographer in association with
6		6 TSG Reporting, Inc. Due to the severity
7		7 of the COVID-19 and following the
8		8 practice of social distancing I will not
9		9 be in the same room as the witness.
10		10 Instead I will record this videotaped
11		11 deposition remotely. The reporter,
12		12 Francis Frederick, also will not be in
13		13 the same room and will swear the witness
14		14 remotely.
15		15 Do all parties stipulate to the
16		16 validity of this video recording and
17		17 remote swearing and that it will be
18		18 admissible in the courtroom as if it had
19		19 been taken following Rule 30 of the
20		20 Federal Rules of Civil Procedure and the
21		21 state's rules where this case is
22		22 pending?
23		23 MR. MONTCLARE: So stipulated on
24		24 behalf of the defense.
25		25 MR. MARANDOLA: Tyler Marandola

<p>1 2 the character of the Phanatic was fully formed 3 by October 31st, 1984?</p> <p>4 A. I'm sorry. Give me the date 5 again.</p> <p>6 Q. October 31st, 1984 which is the 7 date of the assignment?</p> <p>8 A. I'd surely think by -- in four 9 years, we -- you know, when I went out as the 10 Phanatic I understood who he was and how the 11 respond and react and certainly feel it was 12 pretty fully formed by then. But, you know, 13 with different pop culture in different parts, 14 you know, of things that were going on, the 15 Phanatic pulled from those and certainly 16 continued to use his personality, you know, to 17 develop routines and skits and things like 18 that to reflect current pop culture.</p> <p>19 But understanding those types of 20 changes. But his personality certainly in the 21 first year was formed and well into the second 22 year. So I would say yes.</p> <p>23 Q. And is it the Phillies' 24 understanding that Harrison/Erickson had the 25 right to improve anyone who played the role of</p>	<p>Page 18</p> <p>1 2 the Phanatic in the costume? 3 MR. MARANDOLA: Objection. 4 Outside the scope of the 30(b)(6) 5 topics. You can answer to your personal 6 knowledge if you have any. 7 A. The only authority for selecting 8 the performer was with the Philadelphia 9 Phillies.</p> <p>10 Q. How do you know that? 11 A. Because I was there during all 12 many time. And we didn't -- we did not 13 consult with Harrison/Erickson for who would 14 be in the costume. They were not a definitive 15 voice in that process.</p> <p>16 Q. Do you know whether there was a 17 contractual obligation to get the approval for 18 the Phanatic performer from Harrison/Erickson?</p> <p>19 MR. MARANDOLA: Objection. 20 Outside the scope of the 30(b)(6) 21 topics. You can answer in your personal 22 capacity if you know.</p> <p>23 A. I was not privy to the agreement. 24 I was just privy to being involved in 25 selecting the performers. And we never had to</p>
<p>Page 20</p> <p>1 2 receive that approval during that process. To 3 my knowledge, we did not.</p> <p>4 Q. I'm not asking really for your 5 knowledge. Did you do any investigation as 6 part of your appearing here to testify as a 7 representative -- as a designated 8 representative of The Phillies as to whether 9 or not there were any contractual obligations 10 between The Phillies and the Harrison/Erickson 11 people as to who selected the performer?</p> <p>12 MR. MARANDOLA: Objection outside 13 the scope of the 30(b)(6) topics. You 14 can answer in your personal capacity.</p> <p>15 MR. MONTCLARE: I just asked if he 16 did any investigation.</p> <p>17 A. I haven't seen any of those 18 documents. Nor did we discuss those documents 19 or whether they were in place or not.</p> <p>20 Q. Okay. And my question was really 21 did you do an investigation relating to that 22 topic.</p> <p>23 A. No. I did not.</p> <p>24 Q. How did The Phillies pick you to 25 be a Phanatic performer?</p>	<p>Page 21</p> <p>1 2 A. Well, in 1976 and 1977 I was an 3 intern in the promotions office headed by 4 Frank Sullivan. And when 1970 came up he 5 contacted me while I was still on campus at 6 the University of Delaware I was a student, an 7 undergraduate student and he asked me if I 8 would continue with my intern position in 1978 9 and wanted me to also state for the games and 10 then they described that they needed me to get 11 fitted for a costume and that I would be 12 wearing this costume during the games.</p> <p>13 Q. Okay. Was anybody present at your 14 fitting in 1978?</p> <p>15 MR. MARANDOLA: Objection. 16 Outside the scope of the 30(b)(6) 17 topics. You can answer in your personal 18 capacity.</p> <p>19 MR. MONTCLARE: He just testified 20 to that. I'm asking him a question -- 21 never mind.</p> <p>22 Q. Just answer the question. Thank 23 you.</p> <p>24 A. I was by myself during that visit 25 to New York to the studio.</p>

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1 between you on the one hand and The Phillies 2 on the other hand concerning any copyright 3 rights in the Phanatic character up through 4 November 26, 1979?	1 something written between me and The Phillies 2 about what the Phanatic's personality was. Is 3 that what you're asking?
6 MR. MARANDOLA: Objection, outside 7 the scope of the 30(b)(6) notice.	5 Q. Yes. 6 A. There was nothing in writing. It 7 was all in my head.
8 You can answer as an individual, 9 Mr. Raymond.	8 Q. To your knowledge, did The 9 Phillies, as of November 26, 1979, register 10 any copyrights for the Phanatic character?
10 A. So when you're talking about 11 copyrighted character, you're talking about 12 the personality?	11 MR. MARANDOLA: Objection. 12 Outside the scope of the 30(b)(6) 13 notice. Mr. Raymond you can answer if 14 you know.
13 Q. Is there any writing between you 14 and The Phillies concerning the copyrighting 15 of character the Phanatic up through November 16 26, 1979?	15 A. Again, I have not -- I was not 16 privy or involved in any of those documents or 17 discussions or -- nor did I have any knowledge 18 about the legal portions of Phanatic's 19 personality.
17 MR. MARANDOLA: Objection, outside 18 the scope of the 30(b)(6) notice.	20 Q. So I just want to get this 21 straight. Is it your testimony you created 22 the character or that the Phillies created the 23 character that you described earlier?
19 Objection calls for a legal conclusion.	24 A. I was employed by the Philadelphia 25 Phillies. So my understanding is that any of
20 You can answer as an individual.	
21 A. Yeah. I just want to be clear 22 when you're talking -- the character obviously 23 means a couple different things. So your 24 question, is it regarding my writings to The 25 Phillies, so my -- you're asking me if I had	
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1 the work product that I was creating would be 2 part of The Phillies' ownership and control.	1 the specific conversations that you had with 2 Mr. Giles that just testified about?
4 I will say this. One of the best 5 decisions The Phillies made was that they 6 allowed me the freedom and room to develop the 7 personality on my own with limited direction. 8 I worked closely with Bill Giles throughout 9 the first number of months with the Phanatic 10 about thinking about where in the stadium I 11 could go, where I would be most effective, and 12 we would collaborate on that. And then if I 13 did something that Bill and I, in our 14 discussions liked, we kept doing.	4 A. Well, there was -- do you have a 5 time frame in mind that you want to know about 6 --
15 Occasionally, Bill might suggest 16 to me that something was not necessarily what 17 he would like. We'd discuss it. And many 18 times he would agree to my focus and there 19 were times when he said, Well, let's stop 20 doing those things but let's do these things 21 instead. So I had the freedom to do whatever 22 I wanted to do as long as it was G-rated and 23 for the most part I was allowed to continue to 24 do that.	7 Q. Well, you just -- I'm just 8 following up owner testimony you said it was 9 collaborative. You spoke with him. You 10 shared ideas, blah-di-de-blah. Yeah, when -- 11 do you have any specific information about 12 those conversations? Like where they were, 13 when they were there, who was there.
25 Q. Do you have any recollection of	14 A. Well, I can give you one very 15 specific. I had created a routine where the 16 Phanatic would come out in the fifth inning 17 and, based on the team we were playing, there 18 would be a song -- so, for instance, the Mets. 19 Frank Sinatra not would be singing New York 20 New York. I would come out. I'd line up 21 three of the novelty -- the plastic novelty 22 helmets that were the Mets helmets. And I 23 would smash them with a ground crew instrument 24 to the tune of New York New York. And Bill 25 called me in one day and said that there was a